

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JEREMY HALGAT, et al.,

Defendants.

Case No.: 2:13-cr-00239-JAD-PAL

Order

(Docs. 231, 245)

Jeremy Halgat is a defendant in two separate cases arising out of an undercover investigation and resulting in cocaine-conspiracy charges filed in two separate indictments pending before two judges in this district. In the first-filed (and instant) case, 13-cr-239-JAD-PAL (“*McCall*”) Halgat was charged with two other defendants—Anthony McCall and Robert Morrow—for events occurring in February-March 2013; in the second case, 13-cr-241-APG-VCF (“*Wickham*”), Halgat was charged along with a single co-defendant—Udell Wickham—for transactions four months earlier during the Fall of 2012. In June 2014, I denied the Government’s strongly opposed motion to consolidate these cases after finding that the Government failed to demonstrate any of the conditions for joinder under Rule 8 of the Federal Rules of Criminal Procedure. Doc. 186.

After Judge Andrew Gordon (the presiding judge in *Wickham*) and I announced intentions (and obtained the parties’ agreement) to conduct a joint evidentiary hearing on the virtually identical motions to dismiss filed by Halgat in both *McCall* and *Wickham*, the Government renewed its motion to consolidate,¹ asking me to “revisit” my prior denial of the joinder motion. Doc. 231.

¹ Halgat argues that the motion is a late request for reconsideration and that motions for reconsideration are “granted sparingly.” Doc. 244 at 14 (quoting *Mkhitarian v. U.S. Bank, N.A.*, 2013 WL 3943552, at *2 (D. Nev. July 30, 2013). Although the Government also characterizes its request as one for “reconsideration of consolidation/joinder,” because the motion does not challenge my order denying consolidation, I instead view the motion as a renewed motion based upon developments since the previous denial, not a belated motion for reconsideration of my

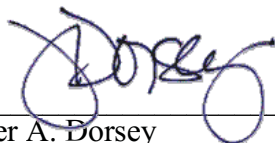
1 McCall and Halgat—the only remaining of the original four defendants²—continue to vehemently
2 oppose the request. Doc. 239, 244, 245.

3 Not enough has changed since my previous denial to justify consolidation of these cases
4 today. Rule 13 of the Federal Rules of Criminal Procedure permits the court to “order that separate
5 cases be tried together as though brought in a single indictment or information if all offenses and all
6 defendants could have been joined in a single indictment or information” after an evaluation of the
7 Rule 8(a) factors permitting initial joinder. *See United States v. Nguyen*, 88 F.3d 812, 815 (9th Cir.
8 1996). After a careful analysis of the two cases in June, I found none of Rule 8(a)’s three conditions
9 satisfied,³ and the Government’s renewed motion offers nothing that persuades me that the case
10 posture has changed in a way that strengthens the Government’s joinder arguments or obviates the
11 defendants’ prejudice assertions.

12 Accordingly, IT IS HEREBY ORDERED that Defendant Halgat’s Joinder in Defendant
13 McCall’s Opposition (**Doc. 245**) is **GRANTED**;

14 IT IS FURTHER ORDERED that the Government’s Motion to Reconsider Consolidation/
15 Joinder of Two District Court Cases Involving Defendant Jeremy Halgat (**Doc. 231**) is **DENIED**
16 without prejudice.

17 DATED October 29, 2014.

18 
19 Jennifer A. Dorsey
20 United States District Judge
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25 _____
26 order. Regardless of how I construe the motion I reach the same result: the Government has not
27 demonstrated that joinder of these matters under Rule 13 is presently warranted.

28 ² Morrow was sentenced in April; Wickham in September.

³ *See* Doc. 186; *United States v. Jawara*, 474 F.3d 565, 573 (9th Cir. 2007).